

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SKILLZ PLATFORM INC.,  
a Delaware corporation,

Plaintiff,

-against-

PAPAYA GAMING, LTD., a foreign  
corporation; and PAPAYA GAMING, INC.,  
a Delaware corporation,

Defendants.

Civil Action No.:

**COMPLAINT**

Plaintiff Skillz Platform Inc. (“Skillz” or “Plaintiff”), by and through its undersigned counsel, brings this action against Defendants Papaya Gaming, Ltd., and Papaya Gaming, Inc. (together, “Papaya,” “Papaya Gaming,” or “Defendant”) and alleges as follows:

**I. INTRODUCTION**

1. This action concerns Defendant Papaya Gaming’s unlawful conduct and fraud in falsely advertising and promoting its mobile games as “totally fair and skill-based” when they are, in fact, rigged by Papaya, through its use of computer algorithms or “bots” that are masquerading as human players. Papaya’s use of bots transforms what might otherwise be legal games of human skill into illegal games of chance or gambling in which Papaya’s unwitting participants have little to no influence on the outcome of any game. And, by deploying bots in games where players’ money is on the line and then controlling when those bots win or lose, Papaya is effectively choosing how much revenue to generate for itself with each game played.

2. Over the past ten years, the mobile gaming industry, which was largely created by Plaintiff Skillz, has skyrocketed in popularity. Skillz’s revolutionary gaming platform hosts Skillz games such as “Solitaire Cube” and “21 Blitz,” and it pairs people in head-to-head, skill-based

competitions with cash prizes on the line. Skillz matches competitors based on their level of ability; accordingly, the speed of Skillz's player matching process varies depending on how many players, and at what skill level, are active on Skillz's platform at any given time.

3. Papaya capitalized on Skillz's success by launching games like "Solitaire Cash" and "21 Cash," which are imitations of Skillz's games, with similar objectives, game play, and financial stakes for players. But although Papaya touts a "fair and fun experience for everyone," its games are manipulated and controlled by Papaya's use of bots. While Papaya's players believe they are engaged in competition with similar (human) players, Papaya is surreptitiously and artificially filling its player pool with computerized bots in order to, among other aims, artificially speed up the process by which Papaya players are placed into multiplayer tournaments, and entice players to keep playing—and depositing money into Papaya's coffers—with "wins" against bots. By using bots to control the rate at which players win, Papaya can maximize its profits by letting players win just enough that they don't quit and leave the platform altogether.

4. Papaya has deceived thousands of consumers—many of whom have relied on Papaya's false and misleading representations about its player base—who have paid to play Papaya games against other players of their skill level. Throughout its website and apps, Papaya claims "[a]ll competitions and tournaments offered on the Services are games of skill." Furthermore, Papaya represents that "[w]inners are determined solely by [] objective criteria," namely, that "[f]rom all entries received for each competition, the individuals who use their relevant skill and knowledge to accumulate the winning score or points according to the corresponding rules will be the winner(s)." Papaya purports to be available only to players who are 18 years of age or older. And it claims that Papaya administrators take "time to review gameplay and account logs to ensure fairness at all times, prevent fraudulent activities, and protect all of our players' funds." Papaya

also claims to have “no vested interest in who wins or loses” nor “profit on the outcome of a Tournament that we provide.” All of these statements—and countless others made by Papaya both on its mobile applications and elsewhere—are false and misleading on multiple levels.

5. Papaya’s false and deceptive marketing materials, advertisements, and other public statements—along with its use of bots in and of itself—violate the Lanham Act’s prohibition of false advertising. Its use of computerized players, and hiding thereof, also flies in the face of New York’s ban on deceptive acts or practices in the conduct of business. Papaya’s misconduct is all the more troubling given that Papaya claims to prohibit the “[u]se of robotic, mechanical, or other forms of pre-programmed entry method”—i.e., the use of bots—while engaging in that very misconduct itself. And Papaya purports to ban “any form of gambling” in its games, although it functions as the “house” at a casino, collecting money from participants who compete against—and often lose to—the “house” through Papaya’s use of bots. When Papaya’s bots win a tournament, Papaya keeps the amount of the entry fees paid by the human players who lose.

6. Papaya’s use of bots, as confirmed by former Papaya employees, means all of its games are not skill-based—*i.e.* based on the skill of the player, with no random events bearing on the result.

7. As a result of Papaya’s false and misleading statements and use of bots, Skillz has lost customers (including prospective customers) and been damaged, including by way of lost market share, revenue, and profits.

## **II. THE PARTIES**

8. Plaintiff Skillz is a Delaware corporation with its principal place of business at 6625 Badura Avenue, Las Vegas, Nevada 89118.

9. Defendant Papaya Gaming, Ltd. is a foreign limited liability company with its principal place of business in Tel Aviv-Yafo, Israel.

10. Defendant Papaya Gaming, Inc. is a Delaware corporation with its principal place of business at 22 Isserles Street, Tel Aviv-Yafo, Israel.

11. On information and belief, Papaya has a regular and established place of business in this District located at 106 West 32nd Street, New York, NY 10001.

### **III. JURISDICTION AND VENUE**

12. This is a civil action for false advertising arising under the Lanham Act, 15 U.S.C. § 1125(a) and a related state law claim.

13. This Court has subject-matter jurisdiction over the matters asserted herein under 28 U.S.C. § 1331.

14. This Court has supplemental subject matter jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367(a). The state law claim asserted herein is related to the Lanham Act claim, is built on the same factual predicates, and is part of the same case and controversy.

15. This Court has personal jurisdiction over Papaya, in part because Papaya does continuous and systematic business in this District, including by soliciting business from the residents of this District<sup>1</sup> and by having numerous customers located in this District.<sup>2</sup> For example, Papaya is subject to personal jurisdiction in this Court because it has a regular and established place of business at its offices in this District, as indicated on its LinkedIn page ([linkedin.com/company/papayaltd/about](https://www.linkedin.com/company/papayaltd/about)) and various Facebook pages (*e.g.*,

---

<sup>1</sup> On its website for one of its gaming applications, Papaya states that it “operate[s] in . . . New York,” to the exclusion of numerous other states. *Is my area supported?*, PAPAYA GAMING, <https://papayagaming.zendesk.com/hc/en-us/articles/360017634778-Is-my-area-supported-> (last visited February 22, 2024). Papaya’s Terms of Use also contain an arbitration clause which states that an “arbitration shall be held in Tel Aviv, Israel (or New York City for U.S. residents).” *Terms of Use*, PAPAYA GAMING ¶ 17 (Dec. 27, 2023). <https://www.papayagaming.com/termsfuse> (last visited February 22, 2024).

<sup>2</sup> For example, [www.facebook.com/solitairecash/](https://www.facebook.com/solitairecash/) identifies various Papaya users that are based in this District.

<https://m.facebook.com/solitairecash/about/>). In addition, Papaya, directly and through agents, regularly does, solicits and transacts business in the District and elsewhere in the State of New York, including through its website at <https://www.papayagaming.com/>, as well as its various standalone game applications,<sup>3</sup> all of which are marketed, offered, distributed to, and utilized by users of mobile devices in this District and throughout the State of New York. Furthermore, Papaya's Terms of Service state that for any dispute not purportedly subject to arbitration, its Terms are "governed by and construed in accordance with the laws of the State of New York" and provide for "exclusive jurisdiction and venue of the state and federal courts in New York County, New York, U.S."

16. In the alternative, this Court has personal jurisdiction over Defendant Papaya Gaming Ltd. under Rule 4(k)(2) of the Federal Rules of Civil Procedure. Skillz's Lanham Act claim against Defendant arises under federal law. Further, to the extent Defendant challenges (and this Court agrees) that Defendant is not subject to personal jurisdiction by this Court, Defendant would not, in that case, be subject to jurisdiction in any state's courts of general jurisdiction. Defendant is a foreign-based entity that has a U.S. location in New York, as alleged above. This Court's exercise of personal jurisdiction under Rule 4(k)(2) would be consistent with due process, as Defendant advertises and markets its platform throughout the United States, solicits customers throughout the United States, and (in its Terms of Use) specifically agrees to resolve disputes in "New York City."

17. Venue is proper in this District under the provisions of 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district,

---

<sup>3</sup> Papaya's gaming applications include, but are not limited to, 21 Cash, Bingo Cash, Bubble Cash, and Solitaire Cash, all of which are available for free download on the Apple App Store.

and because Papaya has committed unfair acts in this District and has a regular and established place of business in this District. Further, venue is proper as to Papaya Gaming Ltd. under 28 U.S.C. § 1391(c)(3) as it is a foreign entity.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. Skillz's Innovations Established Today's Mobile Gaming Industry**

18. Skillz was founded in October 2012 in Boston, Massachusetts.

19. At that time, despite the popularity of video games, video gamers had limited to no options to compete and profit from their skill and dedication. Although athletes in physical sports could earn millions of dollars through competition—not to mention recognition, respect, endorsements, and countless other opportunities—the technology to afford video gamers similar opportunities had not yet been developed.

20. Skillz makes a mobile gaming platform, also referred to as an eSports platform. Rather than hoard its technology, Skillz opened its platform to third-party game developers to maximize the impact and reach of its innovation.

21. To create the Skillz platform, Skillz developed several groundbreaking technologies.

22. First, to guarantee the fairness and integrity of every competition on the Skillz platform, Skillz developed a technology that allows head-to-head gameplay between competitors within an online digital game competition, while also allowing games to be different across different competitions. This novel technology allows competitions to be skill-based even when the games have random elements associated with them, such as the starting hand and deck in a head-to-head game of solitaire.

23. Fueled in part by Skillz's revolutionizing technology and collaborative business model, the mobile gaming industry exploded, and Skillz became one of the fastest growing companies in the United States.

24. Skillz's technology and drive has helped launch mobile gaming into the mainstream.

25. Skillz's rise has fueled the growth of an industry whose market was estimated to comprise 2.8 billion people, and \$93 billion dollars, in 2021.

**B. Skillz Connects Real Players In Head-To-Head Tournaments**

26. The Skillz gaming application is available for free download on the Apple App Store and the Samsung Galaxy Store.

27. Skillz does not develop the games played on its platform itself—Skillz helps game developers enable social competition in their own games.

28. The Skillz platform matches live users in head-to-head tournaments based on their relative skill levels such that players of the same skill level play against each other.

29. The Skillz platform also allows users to enter bracketed tournaments.

30. Players can choose from hundreds of games to play on the Skillz platform. Some of Skillz's most popular games include Solitaire Cube, 21 Blitz, Blackout Bingo, and Bubble Cube 2.

31. Skill-based gaming relies on the concept of player liquidity—which refers to the degree to which one player will find an opponent who wants to play a match.

32. The higher the player liquidity, the more likely that players will find an appropriate opponent quickly; the lower the player liquidity, the harder it is to find a match and the longer it takes to find a match.

33. This promise of fair and quick matchmaking matters tremendously to users, who want to play evenly matched contests without the risk of being steamrolled by an exponentially more experienced and skilled player—and be matched with competitors with little to no delay.

34. Skillz uses algorithms to match players based on ability level and game history to ensure that each tournament is fair.

35. To compete in Skillz cash competitions, a user has to have a mobile device, be over the age of 18, and be located in an area of the world where cash gameplay is available.

36. Skillz does not use, operate, or enable computers or artificial competitors, i.e., “bots,” to play its cash games.

37. Many of Skillz’s games include a chat function, which enables users to chat live with their opponents.

38. Skillz also provides its users with chat rooms that provide a forum for members of the Skillz community to communicate, answer questions and get to know their fellow players.

39. Skillz enables players to access the user profile of their competitors and other users. A user profile may contain information about a player’s history and skill level, their profile picture, and physical location.

### **C. Papaya Capitalizes on Skillz’s Success**

40. Papaya was founded in 2016 and now has 270 employees.<sup>4</sup>

41. Papaya currently offers several mobile gaming applications, including Solitaire Cash, 21 Cash, Bingo Cash, and Bubble Cash—all games in which players can compete to win cash prizes.

---

<sup>4</sup> Papaya Gaming, PITCHBOOK, <https://pitchbook.com/profiles/company/265581-73#overview> (last visited February 22, 2024)



42. Papaya's games are similar to versions offered on the Skillz platform—namely Solitaire Cube, 21 Blitz, Blackout Bingo, and Bubble Cube 2—and they directly compete for users with the analogues available on Skillz's platform.

43. Papaya reportedly reached four million downloads between 2020 and 2021, growing from a ten-employee company to roughly 70 employees during that time.<sup>5</sup> As of May 2023, Papaya stated it has “over 50,000 daily downloads.”<sup>6</sup> Recently, Papaya purported to have 20 million downloads and one million daily users worldwide.<sup>7</sup> By popularity, Solitaire Cash is currently the #2 ranked game in Apple App Store's “Casino” category, Bingo Cash is currently the #6 ranked game in Apple App Store's “Casino” category, and Bubble Cash is currently the #13 ranked game in the Apple App Store's “Casino” category.

44. Papaya's gaming applications are available for free download on the Apple App Store and the Samsung Galaxy Store.

45. According to a 2021 news report, Papaya's co-founder stated that 95% of Papaya's users are based in the U.S.<sup>8</sup>

46. Numerous Papaya users live, and play Papaya games, within this District.

47. Because Skillz and Papaya offer similar games and platforms, with both offering cash prizes, Skillz and Papaya compete for the same users and the same prospective users.

---

<sup>5</sup> James Spiro, “The One Game Papaya Gaming Won't Play,” CALCALIST (Aug. 11, 2021), <https://www.calcalistech.com/ctech/articles/0,7340,L-3914721,00.html>

<sup>6</sup> Papaya Gaming, “Despite the crisis in the tech industry, Papaya Gaming is on the rise” (May 19, 2023), <https://www.papaya.com/blog-post/despite-the-crisis>

<sup>7</sup> “PAPAYA appoints Lital Parush-David as VP HR” CALCALIST (Jan. 10, 2024), <https://www.calcalistech.com/ctechnews/article/bjvz2whup>

<sup>8</sup> James Spiro, “The One Game Papaya Gaming Won't Play,” CALCALIST (Aug. 11, 2021), <https://www.calcalistech.com/ctech/articles/0,7340,L-3914721,00.html>

48. Furthermore, a typical user would not switch back and forth between Skillz and Papaya. Both Skillz and Papaya offer in-game rewards that players accumulate by reaching various accomplishments. The more one plays, the more in-game rewards the player can obtain. Likewise, the more one plays, the more one can “rank” up within the game, increasing the player’s prestige and accolades within the game. As a result, an individual player would be motivated to choose and stick with one platform to focus his or her efforts to attain the most in-game rewards, accolades, and other accomplishments.

49. As a result, Skillz and Papaya are direct competitors in what can be described as a zero-sum game—in many cases, Papaya’s gain is Skillz’s loss.

50. As noted above, player liquidity is a crucial aspect of Skillz’s and Papaya’s platforms. Players expect to be quickly matched against a competitor, and any delay in the matching could result in the player losing interest—and switching platforms, permanently. The more players that are active on the platform, the faster that players can be matched against each other, as there will be a wider pool of players with which to find similarly-skilled players to match up against.

51. Skillz’s games utilize a head-to-head matchup, where two players are matched up against each other, for a one to one matchup.

52. In contrast, Papaya’s games are multiplayer tournaments, where players compete against several other players (at least five players). Depending on the game and the tournament, each game can consist of as many as 20 players. Papaya Gaming has called its ability to “transform

single-player games into multiplayer, skill-based, real-money tournaments” its “secret to success.”<sup>9</sup>

53. Because these tournaments involve more players, each of whom must submit an entry fee, the cash prizes are larger. The prospect of having a larger cash prize, but the same entry fee, is enticing to many users.

54. Indeed, Papaya’s cash prizes are funded by the entry fees of all the players in the game. That is, each player in the game pays an entry fee. Upon information and belief, Papaya takes a cut of this cash for itself. Then, after taking its cut, Papaya divides the remaining funds into cash prizes for first place, second place, and third place players.<sup>10</sup>

55. Because of Papaya’s tournament-based games, which offer the chance at larger cash prizes, some users of Skillz have migrated over to Papaya, and some prospective users who may have used Skillz now sign up instead with Papaya.

56. Papaya claims to match users into tournaments based on relative skill level such that all the players in one game are the same skill level. However, while Skillz’s head-to-head games require only two players, Papaya’s tournament-based games require multiple (sometimes 20) players to fill a game. Because all of the players in any given game must purportedly be at similar skill levels, a significantly larger pool of players must be active as games are being filled to find enough similarly-skilled players to populate the tournament.

---

<sup>9</sup> Papaya Gaming, “Despite the crisis in the tech industry, Papaya Gaming is on the rise” (May 19, 2023), <https://www.papaya.com/blog-post/despite-the-crisis>

<sup>10</sup> For example, in May 2023, Papaya offered a tournament based game titled “Winter Clash.” This game was a 20-player tournament, where each player had to pay a \$4 entry fee. Thus, the total pool of money was \$80 (20 players multiplied by \$4). On information and belief, Papaya took a \$10 cut from this prize pool, leaving \$70 in the prize pool. The first place winner then received \$40; the second place player received \$20; and the third place player received \$10.

57. Papaya's games, therefore, require a higher player liquidity than Skillz's games. In that same vein, Papaya's games are at a greater risk of failing if player liquidity does not constantly remain high. In other words, Papaya games may never start because not enough similarly-skilled players are available to populate multiplayer tournaments.

**D. Papaya Advertises Its Games As Fair, Skill-Based, and That Its Users Compete Against Similar Players**

58. Papaya advertises to the public that all of its games are fair and skill-based. Papaya also advertises that its users compete against other similarly-skilled players, and unmistakably implies that the fellow competitors are all human players. Papaya also tells that the public it does not have a vested interest in who wins or loses, and that it does not profit on the outcome of its tournament. These advertisements are false.

59. For instance, in the FAQ's on its website for Solitaire Cash, Papaya states:

**Is Solitaire Cash legal?**

Yes.

Solitaire Cash isn't considered gambling as the outcome of our Tournaments is based on the skill of the players, rather than luck or chance.

Solitaire Cash has no vested interest in who wins or loses, nor does it profit on the outcome of a Tournament that we provide.

We are solely in the business of creating and managing Tournaments.<sup>11</sup>

---

<sup>11</sup> Solitaire Cash FAQ, last visited February 22, 2024, available at <https://www.solitairecash.com/faq>; *see also Is Solitaire Cash legal?*, PAPAYA GAMING, <https://papayagaming.zendesk.com/hc/en-us/articles/360016951017-Is-Solitaire-Cash-legal-> (last visited February 22, 2024).

60. In addition, on its Apple App Store preview page, Papaya's Solitaire states: "You'll be matched with other players within the same skill level, and you all will get the same deck—so the game is totally fair and skill-based."<sup>12</sup>

61. Papaya's 21 Cash similarly advertises itself on its Apple App Store preview page, stating: "You'll be matched with other players within the same skill level, and get the exact same card deck as them—so the game is totally fair and skill-based."<sup>13</sup>

62. On its Apple App Store preview page, Papaya's Bingo Cash also represents: "You'll be matched with other players within the same skill level, and you all will get and see the same balls & cards—so the game is totally fair and skill-based."<sup>14</sup>

63. Papaya's Bubble Cash makes a similar representation on its Apple App Store preview page: "The game is based on skilled tournaments among multi-players, where all of the users receive the same layout, and the players who finish in the top-3 ranking wins."<sup>15</sup>

64. In the "Help" section of Papaya's Solitaire, Papaya assures players that "[w]e make sure to match players against other opponents with a similar skill level to ensure a fun and fair experience for everyone."

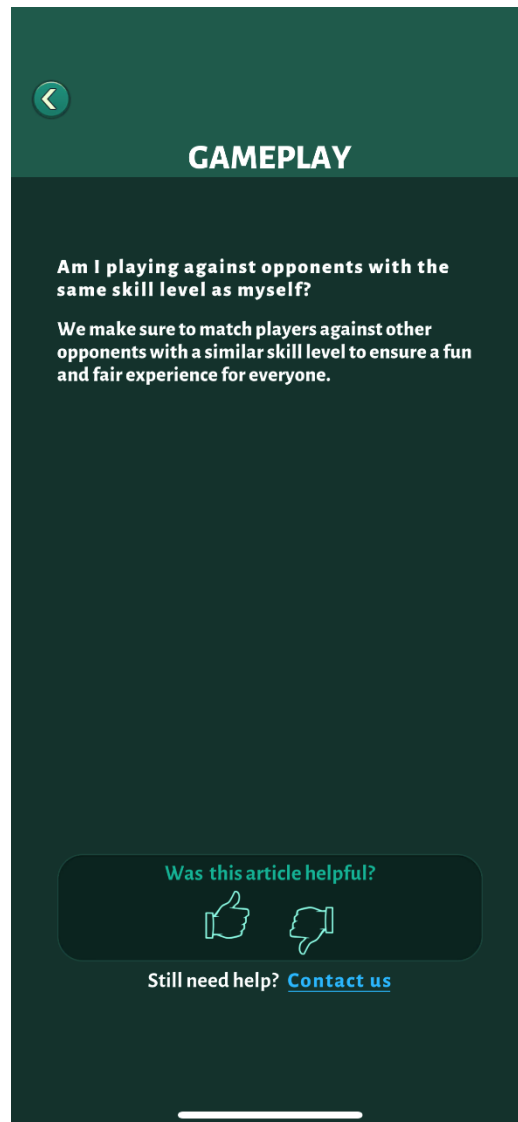
---

<sup>12</sup> *Solitaire Cash*, Papaya Gaming, [https://solitairecash.com/#app\\_info](https://solitairecash.com/#app_info) (last visited June 8, 2023); *Solitaire Cash*, Apple App Store Preview, <https://apps.apple.com/ca/app/solitaire-cash/id1446254576> (last visited February 22, 2024)

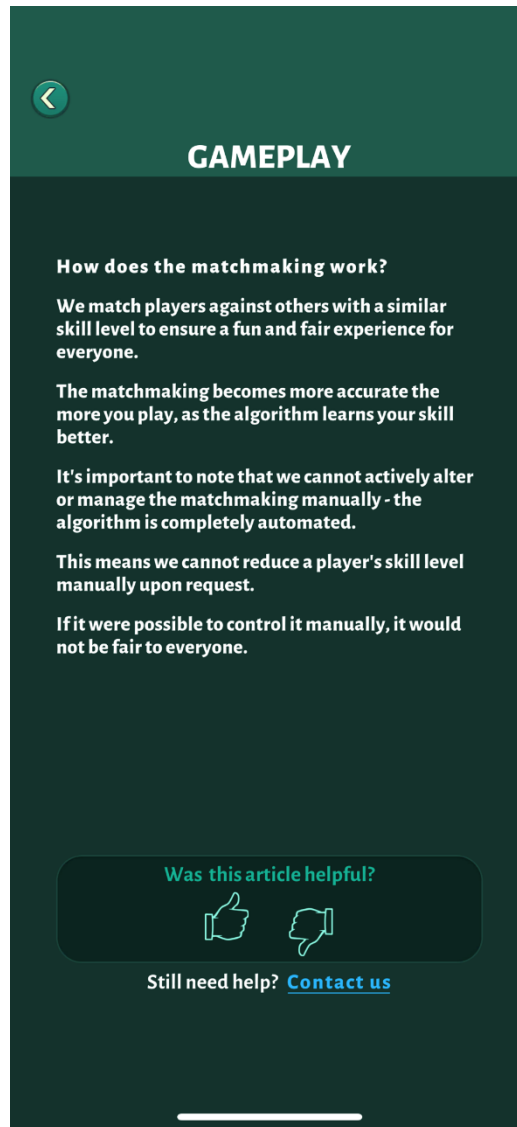
<sup>13</sup> *21 Cash - Win Real Money*, Apple App Store Preview, <https://apps.apple.com/ca/app/21-cash-win-real-money/id1562569259> (last visited February 22, 2024)

<sup>14</sup> *Bingo Cash*, Apple App Store Preview, <https://apps.apple.com/ca/app/bingo-cash/id1522266397> (last visited February 22, 2024)

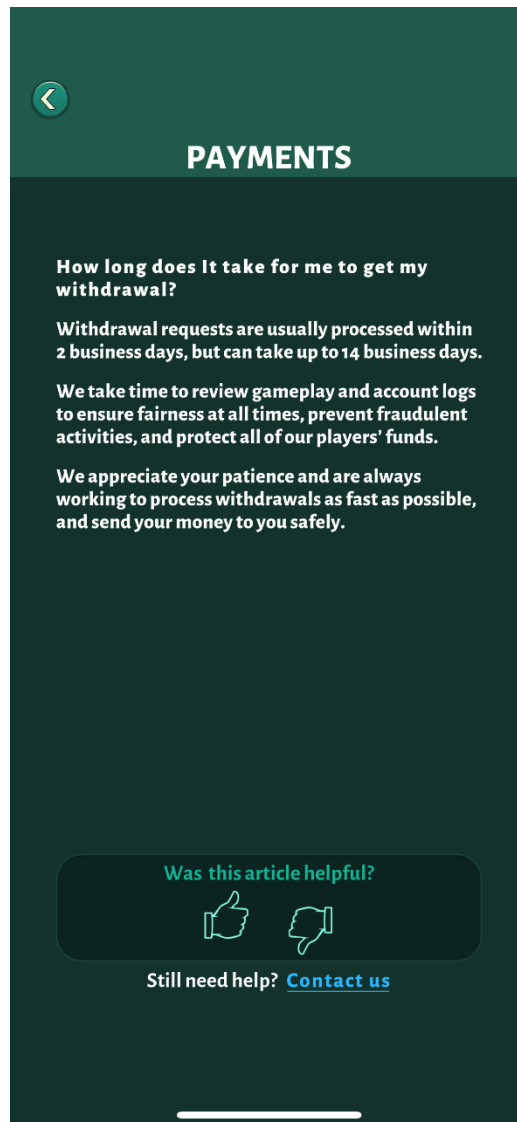
<sup>15</sup> *Bubble Cash*, Apple App Store Preview, <https://apps.apple.com/ca/app/bubble-cash/id1475514684> (last visited February 22, 2024)



65. Papaya further states in the “Help” section of Solitaire Cash that it “match[es] players against others with a similar skill level to ensure a fun and fair experience for everyone. The matchmaking becomes more accurate the more you play, as the algorithm learns your skill better. It’s important to note that we cannot actively alter or manage the matchmaking manually—the algorithm is completely automated.”



66. Papaya’s Solitaire Cash help page also represents that Papaya takes “time to review gameplay and account logs to ensure fairness at all times, prevent fraudulent activities, and protect all of our players’ funds.”



67. Papaya’s publicly available descriptions of Solitaire Cash, 21 Cash, Bingo Cash, and Bubble Cash represent that each game is skill-based and is played by “players.”

68. Papaya’s publicly available descriptions of Solitaire Cash, 21 Cash, and Bingo Cash represent that each game is “fair.”



69. Papaya represents that its Solitaire Cash “[c]ash [t]ournaments are available to all players over the age of 18.”<sup>16</sup> In other words, Papaya publicly represents that its tournaments may be played by only real humans.

70. Suspiciously, Papaya (unlike Skillz) does not provide a function to chat with other players.

71. Similarly, Papaya players cannot access a competitor’s gaming history, while Skillz players can.

72. Papaya has responded to negative user reviews—including those suggesting its games may be fixed through Papaya’s use of bots—by claiming its games provide a “fun and fair experience for everyone.”<sup>17</sup> Tellingly, Papaya does not actually deny or refute customers’ accusations that it deploys bots. Given that many of its customers are clearly unhappy because they believe Papaya unfairly and deceptively deploys bots, Papaya could easily deny these accusations and assure its customers that it does not, in fact, deploy bots—yet Papaya does not do so. There is no reason for Papaya’s silence other than the fact that it does indeed deploy bots. Pasted below are examples of actual customer reviews from Apple’s App Store in which users express suspicion and frustration that Papaya is using bots, along with Papaya’s publicly available responses:<sup>18</sup>

73. For example, user Niedhoffer writes, “You play against bots, not real people.”

---

<sup>16</sup> *Who is eligible to compete in cash tournaments?*, PAPAYA GAMING, <https://papayagaming.zendesk.com/hc/en-us/articles/360017045578-Who-is-eligible-to-compete-in-cash-tournaments-> (last visited February 22, 2024)

<sup>17</sup> *Solitaire Cash - Ratings and Reviews*, Apple App Store Preview, <https://apps.apple.com/us/app/solitaire-cash/id1446254576?see-all=reviews> (last visited February 22, 2024)

<sup>18</sup> See Ex. A (reviews suspecting bot use). User reviews have been reproduced for readability in full in the Exhibits attached hereto.

**You play against bots, not real people**

**09/09/2023  
Niedhoffer**



I've played this game for months now. It's a fun game for sure to pass the time and test your mental acuity. I've noticed patterns that are undeniable. When the game fills with real people, the scores are clustered close together at the top with some weaker scores at the bottom. If I have a good round I can win, and I can feel if I am doing well or not. If I mess up or a bit slow then I will come in third or worse, against real people. However, there are times when I have my best round ever hitting it perfectly near the 4 minute mark, and yet there will be three other people that miraculously all have times better than 4 minutes. It's statistically impossible. And then there are rounds where it is very tough and the board feels like an unbeatable board (although I could have maybe chosen a different path to come to a finished board), even then, someone will once again miraculously have an all time record type score that is miles ahead of anyone else. Clearly a bot. And to prove it further, in the Star game, you are awarded stars with your 1st, 2nd, and 3rd place finishes. The names are all shown. Yet I track these made up bot names after they have an all time record finish to place first, and funny enough those names never show up in the star game. I guess the developers forgot to cover that up. Beware of putting any of your own money in this game, it's a scam. It is fun to play for free but know that it is completely unfair in the end.

### **Developer Response**

Hi there!

We're sorry to hear you feel this way as our main goal is to provide you with an enjoyable gaming experience!

We match players against others with a similar skill level to ensure a fun and fair experience for everyone.

Keep in mind that in each tournament, all players receive exactly the same deck, and on occasion, your opponents' scores may seem to be different from yours, as they might have used a different strategy than you or possibly used their moves more efficiently to get a different outcome to yours.

If there is anything we can assist you with, please feel free to contact our support team by creating a support request within the in-App help center, or by sending a message directly to [support@papayagaming.com](mailto:support@papayagaming.com)

Thanks again,

The Solitaire Cash Team

74. Likewise, user Fisherman6767 writes, “Game is rigged against you.”

**Rigged**

**01/06/2024**

**Fisherman6767**



Game is rigged against you. Have played about 1000 games, it will predictably and without fail make sure that you never win too many games in a row to where you can cash out any substantial money. It does this by hiding the algorithm for who is in the same game until afterwards. So many people are playing at the same time it isn't truly random who they “pair” you with, they make sure you win and lose when they want. Namely, whenever I am about to run out of diamonds, I always win no matter how poorly I do. They want me to keep playing of course, and offer several messages to remind me to deposit money. Then once I accumulate diamonds again, I almost never win despite having my best games. I hope this app is investigated for fraudulent algorithm. This is 100x worse than a casino.

Edit: they replied and obviously denied they rig the games, they place players of similar skill level together to avoid this. I took a chance to believe it and deleted my account then app and rejoined as a new player under new account. Despite my game level going from level 40 to level 1, the quality of my competition was exactly the same and I did not win more games playing at the level of a beginner even though my scores should have been substantially better than the competition seeing I was regularly beating other level 40 players. AVOID THIS APP AT ALL COSTS. They will do anything to take your money. Also they charge a \$1 processing fee for any withdrawal which is another version of theft.

**Developer Response**

Hi There!

Sorry to hear about your game experience. We match players against others with a similar skill level to ensure a fun and fair experience for everyone.

Keep in mind that in each tournament, all players receive exactly the same deck, and on occasion, your opponents' scores may seem to be different from yours, as they might have used a different strategy than you or possibly used their moves more efficiently to get a different outcome to yours.

If you have any additional questions or need any help don't hesitate to contact us through our in-app Help Center or at [support@papaya.com](mailto:support@papaya.com)

Thanks Again!

The Solitaire Cash Team

75. Other users complain that Papaya’s “game at first appears to be on the up and up”—potentially showing that Papaya either deploys bots that allow users to win when they first start playing, or match them with humans when they first start playing—only to find “inconsistencies” and suspect Papaya is using bots later on:

**Unfair gaming practices**

**Edited 2y ago**  
**honesty19149**



Good morning to all, the game at first appears to be on the up and up. After playing for a while I started noticing so inconsistencies in the playing field so to speak so I started videoing my playing and found something extremely troubling. I’m suppose to be playing against other people but I realized I’m playing against a computer. Which makes it impossible to win consistently. Writing a poor review does nothing. I have emailed, written, and called the gaming commission at both the state and federal level.

So I received a response from the people at solitaire cash. They used words like opponents or others but never said people or human beings because using that verbiage would incriminate them. So if anyone thinks they can make real money playing against other human beings on this game you are unfortunately mistaken. I suggest before you deposit any money send them an email and ask them to specify if your playing solely against other human beings or are computer or any other artificial intelligence used. It’s not enough that they take a percentage of each game played. No they need it all because obviously when the there computer wins then they win. That is the legal loop hole that they use by saying they put with equal skill level. I’m not a fan of being Jedi mind tricked.

**Developer Response**

**2y ago**

Hi There!

Sorry to hear about your game experience. We match players against others with a similar skill level to ensure a fun and fair experience for everyone.

Keep in mind that in each tournament, all players receive exactly the same deck, and on occasion, your opponents' scores may seem to be different from yours, as they might have used a different strategy than you or possibly used their moves more efficiently to get a different outcome to yours.

If you have any additional questions or need any help don't hesitate to contact us at [support@papayagaming.com](mailto:support@papayagaming.com).

Thanks Again!  
The Solitaire Cash Team

\*\*\*\*\*

**Fun time waster, don't  
spend money**

**1y ago  
LCC\_Modified**

★ ★ ★ ★ ★

First off, it is a very fun little time waster when I have a bit of down time during the day and just need to get my mind off of things. However, this game is definitely a business in every sense of the word. If you leave a negative review, they will respond with the "we are a legit business" response which means they are in the business to make money, not pay it out. Some will get lucky and win some money from this game but most will not. Do not waste your hard earned money on this money grab. Majority of the time you can not even cash out your winnings because it's all in their "bonus" cash when you attempt.

They claim you are playing against people of your skill level, this (as many have stated in reviews) is completely false. You are clearly attempting to best the high scores of bots. The company can claim whatever they wish on this factor, but they are clearly bots playing against you as you level up.

The company can respond to this review with whatever generic response they wish to attach it with in an attempt to make the negative review seem far fetched, however, they are only showing their true efforts with each false narrative response they respond with.

Again, fun to play but not worth spending money on. Especially when they push about 7 different offers when you open the app plus a constant

push of “winning tips” that all involve spending money within their business.

### Developer Response

1y ago

Hi There!

Thanks for the review. We are pleased that you love our game. We will share your wonderful review with our team and we look forward to bringing you the best entertainment we can.

Thanks Again!  
The Bubble Cash Team

\*\*\*\*\*

### Problematic Game Mechanics

Edited 2y ago  
Ankoku15



The game is intriguing as it is the first totally free solitaire game that allows you the possibility of winning cash. This is good, but upon further playing and deeper inspection I am noticing some odd things.

The competition in this game, is certainly skill based, but I have played hundred upon hundreds of games and have yet to see any proof that I am actually playing against another human being. I suspect that I am playing against bots, which would mean the vast majority of the time the money going into the game/system is going to be staying there, and because bots can produce inhuman game times very consistently the odds are stacked heavily against the player.

I am a fairly skilled player, and have played competitively for years, but currently my opposition requires me to complete my games in under 40 seconds virtually every game to win even on the free levels, which is extremely suspicious. Human opponents have a much higher variation in their games. This is certainly fun to play, but I would caution against investing your actual money until the company can provide evidence of a level playing field as most other games in the genre do by allowing player communication, video replays, and the ability to check the profiles of your opponents.

**Developer Response****2y ago**

Hi There!

We're sorry to hear about your experience.  
Providing impeccable service is our top priority.

Please contact us through the in-app Support form - go to the "account" section in the game footer and click on "Contact Support" - or email us directly at support@papayagaming.com with your nickname.

We look forward to hearing from you.

All the Best,  
The Solitaire Cash Team

\*\*\*\*\*

76. Ironically, Papaya's responses to its reviews often seem to be written by bots themselves. Notably, in response to user LCC\_Modified's four-star review (above), which asserts "[Papaya's] claim [that] you are playing against people of your skill level . . . is completely false . . ." and there "are clearly bots playing against you as you level up", Papaya writes, "We are pleased that you love our game."

77. Papaya's Terms of Use do not inform users that Papaya matches users against Papaya's bots. Rather, Papaya's Terms of Use state in part:

All competitions and tournaments offered on the Services are games of skill. Winners are determined solely by the objective criteria described in the Rules, including without limitation, scoring and any other applicable documentation associated with the competitions. The individuals who better use their relevant skill and knowledge and accumulate the highest scores will be the winner(s). The Services may not be used for any form of gambling.<sup>19</sup>

78. In stating that "[w]inners are determined solely by the objective criteria," Papaya's Terms of Use represent that its games are skill-based and fair.

---

<sup>19</sup> *Terms of Use*, PAPAYA GAMING ¶ 1 (Dec. 27, 2023) (emphasis added) <https://www.papayagaming.com/termsfuse> (last visited February 22, 2024)

79. Papaya’s Terms of Use further imply that the participants in these tournaments—referred to as “individuals”—are live human players.

**E. Papaya Deceives Consumers and Steals Market Share from Skillz By Using Bots**

80. Papaya deploys bots—i.e., computers or artificial competitors that simulate human players—to compete against live human players. Papaya’s use of bots steals market share and revenue from Skillz.

81. In order for real cash games to be launched on a platform successfully, the platform must have a sufficient level of player liquidity to match players at the same skill level. Legally compliant companies like Skillz must make substantial investments to acquire enough users to establish sufficient player liquidity. On the other hand, companies like Papaya that use bots can artificially inflate their player liquidity—with little or no user acquisition costs—and increase the number of “competitors” that a player can be matched against.

82. As a result of Papaya’s use of bots, Papaya players are placed into tournaments faster than they would otherwise be able to if the application relied solely on the presence of live human players, as does Skillz. Papaya therefore saves substantial user acquisition costs for its games and platform by using bots, has fraudulently grown its market share in the real cash gaming industry (to Skillz’s detriment), and is able to provide a multi-player product that a company like Skillz cannot replicate without also using bots—putting Skillz at a clear competitive disadvantage.

83. The short amount of time it takes players to match into tournament on Papaya’s gaming platform demonstrates Papaya has a player base that would be impossible but for its use of bots.

84. In fact, in Apple App Store reviews and on social media, a number of Papaya users have expressed suspicion—and dismay—that Papaya may be using bots instead of live players on their gaming applications.



85. Papaya users have also made clear that Papaya’s representations of fairness induced them to use Papaya’s gaming applications.<sup>20</sup> For example, user Yubee224 writes, “It really is funny how developer or publisher boast this ‘fair’ match maker.” User DJBris complains he “deleted the game because it no longer felt [Papaya was] playing a fair game.”<sup>21</sup>

**Not a scam but rigged for sure**

**Edited Apr 10  
Yubee224**



It really is funny how developer or publisher boast this “fair” match maker. I lose here win there but after I withdraw some cash (around \$40 or so) I started noticing how they put me against players who scores above 50k to 60k Points all the time.

When my highest score is around 35-40k points, it basically means i will never win cash again. I played about 20 games straight of various cash game and lost all of them. Since i can’t score 50-60k points at all. Game is supposedly auto correct your match maker based on your win/ loss but have not seen that happening yet. As I am writing this review about month after withdrawal of cash. I lost more cash games since then and lost about same amount of money I withdrew. If I play free gem game players are in similar range of scores or of 25-35k points and I win some gems here and there.

Maybe matchmaking will change if i lose more than \$100 but I am not sticking around for that. Just play for fun and don’t expect to win a lot of cash. Yes you will win some cash first but it will change.

**Developer Response**

**Nov 30**

Hi There!

Thanks for the review, we’re sorry to hear about your experience but pleased that you love our game.

We match players against others with a similar skill level to ensure a fun and fair experience for everyone,

<sup>20</sup> *Solitaire Cash - Ratings and Reviews*, Apple App Store Preview, <https://apps.apple.com/us/app/solitaire-cash/id1446254576?see-all=reviews> (last visited February 22, 2024)

<sup>21</sup> See Ex. B (user reviews regarding representations of “fairness”)

Keep in mind that in each tournament, all players receive exactly the same board, and on occasion, your opponents' scores may seem to be different from yours, as they might have used a different strategy than you or possibly used their moves more efficiently to get a different outcome to yours.

If you have any additional questions or need any help don't hesitate to contact us at [support@papayagaming.com](mailto:support@papayagaming.com).

Thanks Again!

The Bubble Cash Team

\*\*\*\*\*

86. Papaya users have also indicated that Papaya's representations its games are skill-based induced them to play Papaya's games.<sup>22</sup> For example, user bestbyrns writes, "This is 100% not skill based." User AceGraham titles his review, "This is not skill based, it is a gambling app." User sunshinegigglez states, "they claim this is a skill based game. However, there is no way to increase your skill level."<sup>23</sup>

#### **Fraud**

**Edited Apr 20  
bestbyrns**



This is 100% not skill based. It is gambling. Players do not get the same deck when they choose the same game. Unsolvable decks have players that scored ridiculously high. Don't waste your time. I wish I had not. You are playing bots

#### **Developer Response**

Hi There!

We are a legitimate business and our main priority is providing exceptional service and user experience.

<sup>22</sup> *Solitaire Cash - Ratings and Reviews*, Apple App Store Preview, <https://apps.apple.com/us/app/solitaire-cash/id1446254576?see-all=reviews> (last visited February 22, 2024)

<sup>23</sup> See Ex. C (user reviews regarding representations Papaya's games are "skill-based")

We take this review seriously, we have not and will not scam our customers and would like to look into this further.

Would you please contact our support team so we can address your concerns? Please contact us at support@papayagaming.com

The Solitaire Cash Team

\*\*\*\*\*

87. Papaya users have further indicated that Papaya's representations of "players" and its implications that these players were live humans (and not bots) induced them to use Papaya's gaming applications.<sup>24</sup> User lilith333 titles her review "Not real players" and complains, "This game will let you win a little bit in the beginning, but then will start pairing you with "players" (presumably bots) who consistently score double your personal best." User spacecadetspam writes, "We work hard for our money and deserve a fair game against real people, you can't scam people out of there [sic] money with bots who get times that humans couldn't possibly get."<sup>25</sup>

#### **Not real players**

**Apr 12  
Lilith333**

★ ★ ★ ★ ★

This game will let you win a little bit in the beginning, but then will start pairing you with "players" (presumably bots) who consistently score double your personal best. Then you will lose every game (and your money if you are reckless enough to deposit any) because it's a rigged match. Its only a "game of skill" if players have a reasonable chance of winning - and you don't against bots.

Casinos! The house always wins.

\*\*\*\*\*

#### **Rigged**

**May 16  
spacecadetspam**

★ ★ ★ ★ ★

<sup>24</sup> *Solitaire Cash - Ratings and Reviews*, Apple App Store Preview, <https://apps.apple.com/us/app/solitaire-cash/id1446254576?see-all=reviews> (last visited June 8, 2023)

<sup>25</sup> See Ex. D (user reviews regarding representations players are real)

People will quit playing if your bots are impossible to beat. We work hard for our money and deserve a fair game against real people, you can't scam people out of there money with bots who get times that humans couldn't possibly get. All this game does is line the pockets of the developers and that's it

\*\*\*\*\*

88. Similarly, users on X (formerly known as Twitter) have made numerous complaints about Papaya's applications using bots and being "predatory."<sup>26</sup> These tweets highlight Papaya users' surprise that Papaya apparently uses bots, not live players, and is thus not "fair" or "skill-based" as it represents.



**tim hopkins**  
@arquimedezipozo

...

@solitaire\_cash help me understand how this isn't a scam if you use bots?

10:12 AM · Dec 29, 2022 · 14 Views



**Truth Storm Part 2**  
@TruthStorm02


...

@solitaire\_cash don't play this site. It is rigged using bots.

8:58 PM · Jul 4, 2022

<sup>26</sup> @arquimedezipozo, TWITTER (Dec. 29, 2022, 10:12 AM), <https://twitter.com/arquimedezipozo/status/1608481083762348036>; @TruthStorm02, TWITTER (July 4, 2022, 8:58 PM), <https://twitter.com/TruthStorm02/status/1544123537971187712>; @Sian\_Brimms, TWITTER (Jan. 14, 2023, 2:10 PM), [https://twitter.com/Sian\\_Brimms/status/1614339215390658565](https://twitter.com/Sian_Brimms/status/1614339215390658565)



**Dr. Sian Brimms Esq. MD. PHD. DDS.**   
@Sian\_Brimms

...

It's a scam. They let you win a few dollars in the beginning, but after you start getting good at the game, they consistently match you with other players who outperform you, after you've already played your round. Don't spend your money on this. It's predatory.

2:10 PM · Jan 14, 2023 · **3,711** Views

89. In a message to @solitaire\_cash, a social media account for one of Papaya's gaming applications, another X user complained about Papaya using bots and explicitly referenced Papaya's representations about skill-based game play.<sup>27</sup>



**TheRealMandy**  
@Raxxis373

...

Ya, based on skill my foot. There are so many bots and you can tell as they don't have the first letter in the name, then they will beat you by JUST a few points.....every time

7:06 PM · Jan 4, 2023 · **18** Views

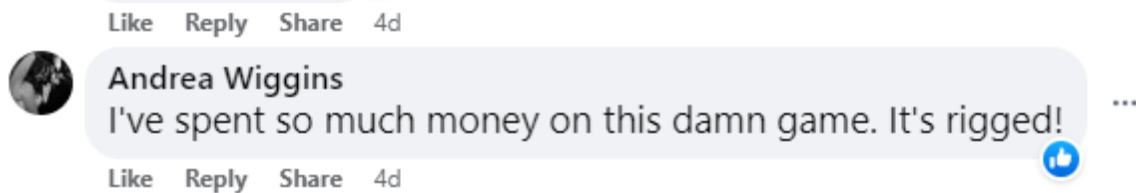
90. Just as in response to user reviews on the Apple App Store, Papaya ignores these accusations it is using bots, refraining from the common sense and simple response of assuring its customers that it does not unfairly deploy bots. Instead, Papaya merely reiterates its false representations of fairness and skill-based game play, promises it "will not scam our customers," and it continues to imply that its player base consists of live humans.

---

<sup>27</sup> @Raxxis373, TWITTER (Jan. 4, 2023, 7:06 PM),  
<https://twitter.com/Raxxis373/status/1610789869856653312>

91. Player reviews show that Papaya players play Papaya’s games with the assumption and expectation that they are playing live humans, not bots.

92. Player reviews also show that Papaya players have lost money playing games on the platform. For example, user Andrea Wiggins writes on Papaya’s Facebook page that she has “spent so much money” on this “rigged” game.<sup>28</sup>



93. Papaya has apparently recognized the negative impact to user experience that comes with bot use, as it *explicitly prohibits the use of bots* in its Promotion Rules:

**Use of robotic, mechanical or other forms of pre-programmed entry methods is strictly prohibited.** Entrants may not use such manipulation tools and Papaya reserves the right (in its sole discretion), from time to time, to implement entry processes that may frustrate or prohibit such automated entry; provided, however, that no entrant in any Promotion may rely upon or insist upon Papaya’s failure or refusal to take any of the foregoing actions or to determine, in its sole discretion, that one entrant’s entry should be discounted because another entrant’s entry was or vice versa.

Unless otherwise specifically allowed with respect to any Promotion, you may not use multiple email addresses, accounts or identities or any other method in order to participate in any Promotion. **Any use of automated system or any similar method to participate in any Promotion is strictly prohibited and may result in your disqualification from the Promotion and/or future use of the Services.** The person to whom the email address was assigned by the applicable operator shall be deemed as the owner of such email address.<sup>29</sup>

<sup>28</sup> Andrea Wiggins, FACEBOOK (June 10, 2023), <https://www.facebook.com/solitairecash/>

<sup>29</sup> Papaya Gaming Promotion Rules (effective as of Nov. 2, 2023), <https://www.papaya.com/promotion-rules> (last accessed February 22, 2024) (emphases added)

**F. By Virtue of Its Use of Bots, Papaya is At Minimum, Operating a Gambling Platform, In Contravention of New York Law**

94. Since 1894, Article I, Section 9 of the New York State Constitution has expressly prohibited gambling, apart for a few limited, irrelevant exceptions, and the New York Penal Law has long recognized crimes for promoting gambling and for maintaining gambling devices and records.

95. Under New York law, gambling occurs when a person “stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome.” N.Y. Crim. Law § 225.00(2). Furthermore, a “contest of chance” is defined as “any contest, game, gaming scheme or gaming device in which the outcome *depends in a material degree upon an element of chance, notwithstanding that skill* of the contestants may also be a factor therein.” N.Y. Crim. Law § 225.00(1) (emphasis added).

96. Because Papaya users play to win money, and because Papaya uses bots as players, Papaya’s gaming platform meets this definition of gambling. Bots introduce randomness—an element of chance—even if they have some predetermined skill programming. No matter how skilled a player becomes, that player may not be able to outcompete an automated player. In other words, any element of skill in Papaya’s games is reduced in comparison with the randomness infused into the process by the use of bots. As a result, and at a minimum, Papaya users are less likely to influence the outcome of a game by virtue of their relative skill level.

97. For Papaya’s games to *not* be considered illegal gambling, its games must be significantly more based on skill than chance. Indeed, skill must predominate and be overwhelmingly more influential than chance in deciding the winners of its games. But because Papaya uses bots, Papaya’s games are not games of skill.

98. In fact, Papaya’s practices are *more* pernicious than mere illegal gambling, as Papaya is able to control when its bots win and lose—and when Papaya keeps the entry fees and prizes earned by the “winner.” Recognizing that New York’s Penal Code and similar laws in other jurisdictions are directly contrary to Papaya’s model, Papaya markets itself as a skill-based platform, although it is anything but.

**FIRST CAUSE OF ACTION**  
**(False Advertising Under the Lanham Act (41 U.S.C. § 1125(a)(1)))**

99. Skillz re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

100. On websites and application interfaces directed towards consumers, Papaya represents that its gaming applications are “fair.”

101. Papaya also represents that its games are skill-based.

102. Papaya advertises that users of its applications will be matched with “players” and “individuals,” while its player base includes computer bots that it creates and deploys.

103. Papaya also represents to users that Papaya “has no vested interest in who wins or loses, nor does it profit on the outcome of a Tournament that we provide. [Papaya is] solely in the business of creating and managing Tournaments.”

104. Based on these representations of fairness, skilled-based play, live opponents, and Papaya’s not having a financial interest in the outcomes of its tournaments, Papaya users pay fees to enter gaming tournaments hosted on Papaya platforms, and act reasonably in doing so.

105. These representations regarding fairness, skilled-based play, live opponents, and Papaya’s not having an interest in the financial outcome of its tournaments are literally false.

106. Papaya’s representations are false and misleading because Papaya deploys bots in its games, and are thus not against live opponents.



107. Because Papaya deploys bots as players in its games, Papaya's games are not skill-based, but are instead dependent on the arbitrary parameters and algorithms supporting the bots.

108. Because Papaya deploys bots as players in its games, Papaya's games are not fair.

109. Because Papaya keeps a user's full entry fee when Papaya's bots win and the player loses, Papaya has a vested interest in the outcome of tournaments involving Papaya's bots.

110. On information and belief, Papaya is required to certify to financial institutions that process its customers' payments for its games, as well as third parties including the Apple App Store, that Papaya does *not* have a vested financial interest in the outcome of Papaya's tournaments in order to legally access those institutions' services and platforms. Indeed, the fact that Papaya's games are available on the Apple App Store—and that Papaya players' funds are processed by U.S. financial institutions—means Papaya *must* be making material misrepresentations to those third parties. A federal court in the Northern District of California has already ruled that statements made by AviaGames, Inc., another mobile gaming company that also uses bots, that it did not “keep money or prizes from its games” were “related to and in furtherance of [its] fraud against financial institutions.” *Skillz Platform v. AviaGames, Inc.*, 5:21-cv-0243 (BLF) (N.D. Cal.) (ECF 509 at 9).

111. In the alternative, Papaya's representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its tournaments are literally false by implication, as Papaya's representations (at the very least) imply that the games are exclusively populated by live humans of similar skill.

112. Further, Papaya's representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its tournaments are literally false by omission, as Papaya does not inform the users that its games are populated by bots, and thus, Papaya's

reference to similarly-skilled “players,” who must be at least 18 years old, does not mean live humans, and as Papaya does not inform players it keeps the entry fees or prize money of its bots.

113. For the same reasons, Papaya’s representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its tournaments are materially misleading.

114. *Even if* Papaya’s use of bots did not render its games unfair or games of chance, Papaya would still be deceiving consumers because they believe Papaya’s games are played by live individuals, as opposed to bots, and that Papaya does not have a vested financial interest in the outcome of its tournaments.

115. Papaya’s representations have deceived users of Papaya’s games.

116. By making these false representations to consumers, including within advertisements, on its website, within its game applications, and in response to user reviews, Papaya has diverted at least Skillz’s player base, thereby harming Skillz, including by way of lost revenue, market share, and profits in an amount to be proven at trial.

**SECOND CAUSE OF ACTION**  
**(Violations of New York General Business Law (GBL) § 349)**

117. Skillz re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

118. On websites and application interfaces directed towards consumers, Papaya represents that its gaming applications are “fair.”

119. Papaya also represents that its games are skill-based.

120. Papaya advertises that users of its applications will be matched with “players” and “individuals,” while its player base includes computer bots that it creates and deploys.

121. Papaya also represents to users that Papaya “has no vested interest in who wins or loses, nor does it profit on the outcome of a Tournament that we provide. [Papaya is] solely in the business of creating and managing Tournaments.”

122. Based on Papaya’s representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its tournaments, Papaya users pay fees to enter gaming tournaments hosted on Papaya platforms, and act reasonably in doing so.

123. Papaya’s representations are false and misleading because Papaya deploys bots in its gaming platforms.

124. Because Papaya deploys bots as players in its games, Papaya’s games are not skill-based.

125. Because Papaya deploys bots as players in its games, Papaya’s games are not fair.

126. Because Papaya keeps a user’s full entry fee when Papaya’s bots win and the player loses, Papaya has a vested interest in the outcome of its tournaments involving bots.

127. In making these representations, Papaya advertises itself as hosting tournaments comprised of live players.

128. Based on these representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its tournaments, Papaya users pay fees to enter gaming tournaments hosted on Papaya platforms, and act reasonably in doing so.

129. These representations are false because Papaya uses bots as players in its gaming platforms, and Papaya keeps a user’s entry fee when one of Papaya’s bots wins.

130. These representations have deceived consumers of Papaya’s gaming applications.

131. Papaya’s use of bots further harms the public because it transforms its games into—at a minimum—illegal gambling.

132. Papaya's representations entice the public into participating in illegal gambling, unwittingly.

133. By falsely holding itself out to the public, Papaya diverted Skillz's player base, thereby harming Skillz, including by way of lost revenue, market share, and profits in an amount to be proven at trial.

**V. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor as follows:

A. For preliminary and permanent injunctive relief prohibiting Papaya, its agents, or anyone working for, in concert with or on behalf of Papaya from engaging in false or misleading advertising with respect to its gaming applications and/or violating the Lanham Act, 41 U.S.C. § 1125(a)(1), which relief includes but is not limited to removal of all false or misleading advertisements and corrective advertising to remedy the effect of Papaya's false advertising;

B. For an order requiring Papaya to correct any erroneous impression persons may have derived concerning the nature, characteristics, or qualities of its gaming applications, including without limitation, the placement of corrective advertising and providing written notice to the public;

C. Awarding Skillz actual, compensatory, and consequential damages;

D. Awarding Skillz punitive damages;

E. Awarding Skillz lost profits;

F. Awarding Skillz Papaya's revenues, profits, and/or enrichment obtained as a consequence of Papaya's wrongful conduct;

G. For preliminary and permanent injunctive relief enjoining Papaya from continuing its unlawful conduct, including but not limited to, using bots in its games and enjoining Papaya from advertising its gaming applications as fair, skill-based, and involving human players;

H. Costs and expenses in this action;

I. An award of prejudgment and post-judgment interest; and

J. Such other and further relief as the Court may deem just and proper.

## **VI. DEMAND FOR JURY TRIAL**

Skillz hereby demands trial by jury for all causes of action, claims, or issues in this action that are triable as a matter of right to a jury.

Dated: March 4, 2024

KING & SPALDING LLP

By: /s/ Craig Carpenito

Craig Carpenito

ccarpenito@kslaw.com

Jessica Benvenisty

jbenvenisty@kslaw.com

Alvina Pillai

apillai@kslaw.com

KING & SPALDING LLP

1185 Avenue of the Americas

34th Floor

New York, NY 10036-2601

Tel: (212) 556-2100

Fax: (212) 556-2222

Lazar P. Raynal (*pro hac vice forthcoming*)

lraynal@kslaw.com

Michael A. Lombardo (*pro hac vice forthcoming*)

mlombardo@kslaw.com

KING & SPALDING LLP

110 N. Wacker Drive

Suite 3800

Chicago, IL 60606

Tel: (312) 995-6333

Fax: (312) 995-6330

*Attorneys for Skillz Platform Inc.*